

Qualifications of Juvenile Indigent Defense Panel Attorneys

In order to assure that indigent accused juveniles receive the effective assistance of counsel to which they are constitutionally entitled, members of the indigent defense panel providing defense services should meet the following minimum professional qualifications to be considered eligible and maintain eligibility, for each level.

A. Grade 4 Felony Juvenile Attorney (Homicides)

- i. At least 10 years criminal defense experience and membership in the California State Bar for a minimum of seven (7) years.
- ii. Attorney of record in at least sixty (60) felony* juvenile criminal cases. Twenty (20) of which must have been tried to completion. Ten (10) of those tried to completion must have been statutorily defined serious and violent felonies.
- iii. Counsel wishing to serve as lead counsel in a homicide case must have attended at least one homicide training program within the previous 12 months.
- iv. Attended all required panel training and meetings within the previous 12 months or, if applicable, comply with F IV below.

B. Grade 3 Felony Juvenile Attorney

- i. At least 7 years criminal defense experience and membership in the California State Bar for a minimum of 5 years.
- ii. Attorney of record in at least forty-five (45) felony* juvenile criminal cases. Fifteen (15) of the thirty must have been tried to completion. Five (5) of the fifteen (15) must have been statutorily defined serious and violent felonies.
- iii. Attended at least one trial skills training program within the previous 12 months.
- iv. Attended all required panel training and meetings within the previous 12 months, or if applicable, comply with F IV, below.

C. Grade 2 Felony Juvenile Attorney

- i. At least 3 years criminal defense experience and membership in the California State Bar for a minimum of 2 years;
- ii. Attorney of record in at least thirty (30) juvenile criminal cases, seven (7) of which were tried to completion. In at least five (5) of the seven (7) cases that were tried, must have served as lead counsel.
- iii. Each attorney shall be mentored at his or her first felony trial by an attorney grade 3 or 4.
- iv. Attended at least one trial skills training program approved by the Indigent Defense Panel Committee within the previous 12 months
- v. Attended all required panel training and meetings within the previous 12 months, and if applicable comply with F IV, below.

D. Grade One Misdemeanor Juvenile Attorney

- i. Membership in the California State Bar for a minimum of six months.
- ii. Attorney of record, associate counsel, second counsel, or assistant counsel in at least three (3) juvenile criminal cases.
- iii. Attended at least one trial skills training program approved by the Indigent Defense Panel Committee within the previous 12 months.
- iv. Watch videotapes of previous panel training held before your admission to the panel and required for your level, before being assigned to your first case.
- v. Each attorney shall be mentored in his or her first trial by an attorney level 3 or 4.
- vi. Attend all required training and meetings after admission to the panel.

Standards

California Rules of Court Section 24

(c) [Standards of representation and compensation] The presiding judge of the juvenile court should:

(1) Encourage attorneys who practice in juvenile court, including all court-appointed and contract attorneys, to continue their practice in juvenile court for substantial periods of time. A substantial period of time is at least two years and preferably from three to five years.

(2) Confer with the county public defender, county district attorney, county counsel, and other public law office leaders and encourage them to raise the status of attorneys working in the juvenile courts as follows: hire attorneys who are interested in serving in the juvenile court for a substantial part of their career; permit and encourage attorneys, based on interest and ability, to remain in juvenile court assignments for significant periods of time; work to ensure that attorneys who have chosen to serve in the juvenile court have the same promotional and salary opportunities as attorneys practicing in other assignments within a law office.

(3) Establish minimum standards of practice to which all court-appointed and public office attorneys will be expected to conform. These standards should delineate the responsibilities of attorneys relative to investigation and evaluation of the case, preparation for and conduct of hearings, and advocacy for their respective clients.

(4) In conjunction with other leaders in the legal community, ensure that attorneys appointed in the juvenile court are compensated in a manner equivalent to attorneys appointed by the court in other types of cases.

(Subd (c) adopted effective July 1, 1992.)

Advisory Committee Comment

The quality of justice in the juvenile court is in large part dependent upon the quality of the attorneys who appear on behalf of the different parties before the court. The presiding judge of the juvenile court plays a significant role in ensuring that a sufficient number of attorneys of high quality are available to the parties appearing in juvenile court.

Juvenile court practice requires attorneys who have both a special interest in and a substantive understanding of the work of the court. Obtaining and retaining qualified attorneys for the juvenile court requires effective recruiting, training, and employment considerations.

The importance of juvenile court work must be stressed to ensure that juvenile court assignments have the same status and career enhancement opportunities as other assignments for public law office attorneys.

The presiding judge of the juvenile court should urge leaders of public law offices serving the juvenile court to assign experienced, interested, and capable attorneys to that court, and to establish hiring and promotional policies that will encourage the development of a division of the office dedicated to working in the juvenile court.

National commentators are in accord with these propositions: "Court-appointed and public attorneys representing children in abuse and neglect cases, as well as judges, should be specially trained or experienced. Juvenile and family courts should not be the 'training ground' for inexperienced attorneys or judges." [Deprived Children: A Judicial Response-73 Recommendations, Report of the Metropolitan Court Judges Committee, National Council of Juvenile and Family Court Judges (1986), p. 14.]

Fees paid to attorneys appearing in juvenile court are sometimes less than the fees paid attorneys doing other legal work. Such a payment scheme demeans the work of the juvenile court, leading many to believe that such work is less important. It may discourage attorneys from selecting juvenile court practice as a career option. The incarceration of a child in a detention facility or a child's permanent loss of his or her family through a termination of parental rights proceeding is at least as important as any other work in the legal system. Compensation for the legal work in the juvenile court should reflect the importance of this work.

(d) [Training and orientation] The presiding judge of the juvenile court should:

(1) Establish relevant prerequisites for court-appointed attorneys and advocates in the juvenile court.

(2) Develop orientation and in-service training programs for judicial officers, attorneys, volunteers, law enforcement personnel, court personnel, and child advocates to ensure that all are adequately trained concerning all issues relating to special education rights and responsibilities, including the right of each child with exceptional needs to receive a

free, appropriate public education and the right of each child with educational disabilities to receive accommodations.

(3) Promote the establishment of a library or other resource center in which information about juvenile court practice (including books, periodicals, videotapes, and other training materials) can be collected and made available to all participants in the juvenile system.

(4) Ensure that attorneys who appear in juvenile court have sufficient training to perform their jobs competently, as follows: require that all court-appointed attorneys meet minimum training and continuing legal education standards as a condition of their appointment to juvenile court matters; and encourage the leaders of public law offices that have responsibilities in juvenile court to require their attorneys who appear in juvenile court to have at least the same training and continuing legal education required of court-appointed attorneys.

(Subd (d) amended effective January 1, 2001; adopted effective July 1, 1989; previously amended and relettered effective July 1, 1992.)

Advisory Committee Comment

Juvenile court law is a specialized area of the law that requires dedication and study. The juvenile court judge has a responsibility to maintain high quality in the practice of law in the juvenile court. The quality of representation in the juvenile court depends in good part on the education of the lawyers who appear there. In order to make certain that all parties receive adequate representation, it is important that attorneys have adequate training before they begin practice in juvenile court and on a continuing basis thereafter. The presiding judge of the juvenile court should mandate such training for all court-appointed attorneys and urge leaders of public law offices to provide at least comparable training for attorneys assigned to juvenile court.

A minimum of six (6) hours of continuing legal education is suggested; more hours are recommended. Education methods can include lectures and tapes which meet the legal education requirements.

In addition to basic legal training in juvenile dependency and delinquency law, evidentiary issues, and effective trial practice techniques, training should also include important related issues, including but not limited to child development, alternative resources for families, effects and treatment of substance abuse, domestic violence, abuse, neglect, modification and enforcement of all court orders, dependency, delinquency, guardianships, conservatorships, interviewing children, and emancipation. Education may also include observational experience such as site visits to institutions and operations critical to the juvenile court.

A significant barrier to the establishment and maintenance of well-trained attorneys is a lack of educational materials relating to juvenile court practice. Law libraries, law

offices, and court systems traditionally do not devote adequate resources to the purchase of such educational materials.

General Criminal Law Standards:

National Advisory Commission on Criminal Justice Standards and Goals, **Task Force on Courts**, Standard 13.15.

National Legal Aid and Defender Association, **Guidelines for Negotiating and Awarding Public Defense Contracts**, 1984, Standard III-7.

National Legal Aid and Defender Association, **Standards for the Appointment and Performance of Counsel in Death Penalty Cases**, 1987, Standard 5.1.

Commentary:

"Effective representation can only be provided by attorneys experienced in the type of case in which they appear. The standard assigns the most difficult cases to those attorneys with the most experience and skill in trial advocacy while at the same time establishing the method for less experienced attorneys to become qualified for more serious cases."

Inexperienced attorneys cannot only deprive their clients of their right to effective counsel, they also create problems for the criminal justice system itself. Inexperienced attorneys are less able to effectively negotiate with prosecutors, thus lengthening the time needed to resolve pre-trial issues. They are less efficient in bringing cases to resolution and may burden the court with irrelevant issues and the county with unnecessary costs.

The practice of criminal law has become highly specialized in recent years. Only attorneys who possess effective trial advocacy skills and have a thorough knowledge of substantive and procedural law can be expected to competently represent persons accused of crime. Less experienced attorneys benefit from training under the direction of more experienced attorneys, acquiring theoretical and practical knowledge before they assume sole responsibility for a criminal defense."